



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Ping, Inc.
COUNTRY: China
FACTORY CODE: 4800151330J
MONITOR: Openview Service, Ltd.
AUDIT DATE: October 13-14, 2011
PRODUCTS: Golf Bags, Sporting
Backpacks, Traveling Bags
PROCESSES: Cutting, Sewing, Assembly,
Inspection, Packing
NUMBER OF WORKERS: 2700

FLA Comment:

This report was submitted with a corresponding corrective action plan to the FLA and was reviewed by FLA staff. In an effort to improve the effectiveness of remediation, the FLA has provided feedback and recommendations to the company, however the recommendations have not been agreed or incorporated by the company. The report is posted in its current state and is considered finalized. Updates on the progress of the corrective action will be posted when received by the company.

CONTENTS:

Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses	3
Wages, Benefits and Overtime Compensation: Training and Probation Wage	4
Wages, Benefits and Overtime Compensation: Timely Payment of Wages	5
Forced Labor: Freedom in Employment	6
Freedom of Association: Right to Freely Associate	7
Non-Discrimination: Recruitment and Employment Practices (Job Advertisements, Job Descriptions, Evaluation Policies)	8
Health and Safety: Permits and Certificates	10
Health and Safety: Evacuation Requirements and Procedure	11
Health and Safety: Personal Protective Equipment	12
Health and Safety: Machinery Maintenance and Worker Training	14
Hours of Work: Rest Day	15
Hours of Work: Overtime/Calculation Over Period Longer Than One Week	17

Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

Noncompliance

Explanation: No social insurances were provided for some employees. There was a total of 2,700 workers in the factory. Among them, only 2,667 were covered by work-related injury insurance, medical insurances and maternity insurance, and 1,246 were covered by both the pension and unemployment insurances. (Remark: The factory obtained the social insurance wavier from the local authority on June 28, 2011.)

Legal References: Article 9, Article 20, Article 29, Article 39, Article 49 of the Social Insurance Law of the PRC.

Plan Of Action: Issued CAPA # 2813 to [Factory name]. Factory management to:

1. Get factory top management to support purchasing social insurance for all employees.
2. Promote social insurance at the factory, e.g. add a social insurance training session to the orientation.
3. Increase social insurance coverage according to Nike social insurance guidelines. Reach 100% coverage of employees by May, 2013.

Deadline Date: 01/09/2012

Action Taken: Factory social insurance coverage reached 100% (except only 84% coverage for pension and unemployment insurances) by December, 2012.

Plan Complete: No

Plan Complete Date: 05/31/2013

Wages, Benefits and Overtime Compensation: Training and Probation Wage

WBOT.3 Where probation or training wages are legally allowed, no worker shall be paid a probation or training wage for more than three months cumulatively. (S)

Noncompliance

Explanation: It is stated in the employment contract that the probation attached to the 3-year and 1 day fixed-term contract was 6 months, although in practice most workers finished their probation period after only 3 months. During the probation period, workers could not receive the performance bonus, which is RMB 40 per month. This practice is in line with the local law in China but contrary to FLA benchmarks.

Plan Of Action: Issued CAPA # 2811 to [Factory name]. Factory management to:

1. Review and update the factory's internal policy regarding the performance bonus.
2. Post the policy and train workers about the performance bonus.

Deadline Date: 01/09/2012

Action Taken: Factory completed the corrective action per annual audit results on July 18, 2012.

Plan Complete: Yes

Plan Complete Date: 02/05/2012

Wages, Benefits and Overtime Compensation: Timely Payment of Wages

WBOT.4 All wages, including overtime compensation shall be paid within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month. (S)

Noncompliance

Explanation: Based on payroll review, it was found that the last month of wages of the resigned workers was paid on the next pay day instead of on the day of resignation, which violates the requirements of local law.

Legal Reference: Article 50 of the China Labor Law.

Plan Of Action: Issued CAPA #2812 to [Factory name]. Factory management to:

1. Review salary payment system.
2. Establish salary payment system for resigning workers.

Deadline Date: 01/09/2012

Supplier CAP: The salary payment system is not standardized. The factory will establish a salary payment system for dismissed workers and confirm the compensation details with them 3 days after their resignation.

Supplier CAP Date:

Action Taken: January 25, 2013 update:

1. All resigned workers can get their last payment within 3 days starting in July 2012.
2. Before May 31, 2013, all resigned workers can get their last payment on the day they resigned.

Plan Complete: No

Plan Complete Date: 05/31/2013

Forced Labor: Freedom in Employment

F.2 All workers shall have the right to enter into and to terminate their employment freely. (P)

Noncompliance

Explanation: Workers could not resign without the approval of 5 different persons including the line foreman, supervisor, section controller, and administration officer and administration supervisor. 30% of interviewed workers reported that it was difficult to resign in the factory.

Legal Reference: Article 37 of China Labor Contract Law.

Plan Of Action: Issued CAPA #2807 to [Factory name]. Factory management to:

1. Review the factory internal policy regarding resignation.
2. Simplify the approval process.

Deadline Date: 01/09/2012

Supplier CAP: Workers didn't have 1 month in advance to apply for resignation according to the local law. According to the local law, factory has to modify the process. Workers need to submit a resignation notice 30 days prior to their planned resignation, but typically, workers can resign after their department controller's approval. It's our internal procedure to sign the resignation notice in 3 working days, since it only takes 3 days.

Supplier CAP Date:

Action Taken: Updated on January 25, 2013: It has generally taken 3 days for resignation approval since February 2012, according to our annual audit on July 18, 2012.

Plan Complete: Yes

Plan Complete Date: 02/05/2012

Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: FLA Comment: The Chinese constitution guarantees Freedom of Association (FOA); however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union - the All China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. There was a trade union under the All China Federation of Trade Unions (ACFTU) established on January 1st, 1999 in the factory. All members selected union representatives by voting and union representatives selected chairman. Chairman of the trade union was the production manager of the factory. Around 50% union representatives were foremen or supervisors and others were general production workers.

Plan Of Action: Issued CAPA # 2814 to [Factory name]. The factory management to ensure that all workers have freedom of association and collective bargaining.

Deadline Date: 01/09/2012

Supplier CAP: China's national conditions. All factory trade union under ACFTU. See attached photo for verification.

Supplier CAP Date:

Action Taken: There are Trade Union representative workers at the factory. The representatives are nominated and elected by workers. The representatives act as a communication channel between the workers and the management. The representative have regular meetings with the factory management team semi-annually, and there are other meetings/round table discussion on emerging topics from time to time.

Plan Complete: Yes

Plan Complete Date: 02/05/2012

Non-Discrimination: Recruitment and Employment Practices (Job Advertisements, Job Descriptions, Evaluation Policies)

D.3 Recruitment and employment policies and practices, including job advertisements, job descriptions, and performance/job evaluation policies and practices shall be free from any type of discriminatory bias. (S)

Noncompliance

Explanation: There was an age limit for the candidates in the factory. The advertisement around the factory gate indicated that only candidates who were over 18 years old would be hired.

Legal Reference: Article 12 of the China Labor Law and Article 20 of the Provisions on Employment Services and Employment Management.

Plan Of Action: Issued CAPA #2808 to [Factory name]. Factory management to:

1. Review factory internal recruitment policy.
2. Revise the advertisement; any candidates over 16 years old will be eligible for hire.

Deadline Date: 01/09/2012

Supplier CAP: The recruitment regulation is not standardized. Factory has modified the recruitment regulation and it has already been changed from 18 to 16 years old.

Supplier CAP Date:

Action Taken: Updated on January 25, 2013: According to annual audit on July 18, 2012, the corrective actions have been finished.

Plan Complete: Yes

Plan Complete Date: 02/05/2012

Health and Safety: Permits and Certificates

H&S.8 The employer shall at all times be in possession of all legally required and valid permits and certificates related to health and safety issues, such as those related to the purchase and storage of chemicals, fire safety inspections, inspection of machinery, and (chemical) waste disposal. (P)

Noncompliance

Explanation: 1. Document review and management interviews confirmed that the factory could not provide the Fire Safety Inspection Certificates for the below buildings: 1 3-story warehouse building, 1 5-story management dormitory and 1 5-story office building.

2. Document review identified that the inspection certificate for 1 new forklift was not registered with the local government.

Legal Reference: Article 13 of the China Fire Prevention Law and the Article 28 of Safety Monitoring Regulation of Special Equipment (PRC State Council Order # 373)

Plan Of Action: Issued CAPA # 2815 to [Factory name].

1. Factory renamed and the new fire system needs to be reconstructed to obtain the Fire Safety Inspection Certificate.

Deadline Date: 01/09/2012

Supplier CAP: All buildings were rented and we didn't obtain the Fire Safety Inspection Certificates from the landlord in time. This is a new forklift and we have received the copy of the Fire Safety Inspection Certificates. The new forklift was registered, and it has been used by other factories that belong to the Corporation.

Supplier CAP Date:

Action Taken:	Updated on January 25, 2013 Updated status is: 1. The Fire Safety Inspection Certificate has been obtained for area #1 (includes 2nd workshop, 5th workshop, 2 dormitories, 1 office building and 1 warehouse). Fire spraying system is under construction for the rest, including area #2 (includes 2 workshops and 1 warehouse) and construction has been underway since January 2013. The Fire Safety Inspection Certificate will be obtained after the construction. 2. The forklift is registered with the local government. A yearly inspection is conducted for the forklift. The most updated inspection report was on September 7, 2012, and the results meet government requirements.
Plan Complete:	No
Plan Complete Date:	06/30/2013

Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: Based on visual inspection, it was found that 2 of the 3 exits in 1 3-story raw materials warehouse were locked during work hours, which covers 1,200 meters squared. 3 warehouse keepers were working there.

Legal Reference: Article 28 of the China Fire Prevention Law.

Plan Of Action: Issued CAPA # 2816 to [Factory name]. Management personnel have a lack of safety awareness. Our plan is to strengthen the training, post “keep open” signs on the exits, and ensure that all exits are open during work hours. Photo sent to FLA for review.

Deadline Date: 01/09/2012

Action Taken: Updated on January 25, 2013: All exits in the workshop are open for evacuation during working hours. A risk assessment has been conducted for the workshop. The emergency action plan has been conducted. A fire drill is done twice per year both in the manufacturing areas and the dorm areas.

Plan Complete: Yes

Plan Complete Date: 02/05/2012

Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: Based on on-site observation, it was found that none of the gluing workers were provided with protective gloves.

Legal References: Article 20 of the Law of the People's Republic of China on Prevention and Control of Occupational Diseases and Article 37 of the Law of the People's Republic of China on Production Safety.

**Plan Of
Action:** Issued CAPA # 2817 to [Factory name].

**Deadline
Date:** 01/09/2012

**Supplier
CAP:** Workers lack relevant training; they didn't have safety awareness. Factory established a PPE management process. Training for employees who handle the chemicals wear the appropriate PPE. Photo sent to FLA for verification.

**Supplier
CAP Date:**

**Action
Taken:** Updated on January 25, 2013: Protective gloves are provided to all gluing workers. Workers are allowed to replace them with new gloves when they are worn out. The PPE purchase records and distribution records are well kept.

**Plan
Complete:** Yes

**Plan
Complete
Date:** 02/05/2012

Health and Safety: Machinery Maintenance and Worker Training

H&S.18 All production machinery, equipment and tools shall be regularly maintained and properly guarded. Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use. Employers shall ensure safety instructions are either displayed/posted near all machinery or are readily accessible to the workers. (S)

Noncompliance

Explanation: Based on on-site observation, it was found that 80% of the sewing machines were without needle guards, and 40% of the sewing machines were not equipped with pulley guards for the side belt near the sewing workers.

Legal Reference: Article 6.1.6 of the Code of Design of Manufacturing Equipment Safety and Hygiene.

Plan Of Action: Issued CAPA # 2818 to [Factory name]. Strengthen the supervisor responsibilities and worker training. All sewing machines have had needle and pulley guards installed on them. Photo sent to FLA for review.

Deadline Date: 01/09/2012

Supplier CAP: Workers and supervisors lack relevant training; they don't have safety awareness.

Supplier CAP Date:

Action Taken: Updated on January 25, 2013: 95% of pulley guards are equipped with sewing machine bells. The other 5% are under construction by the maintenance department. 100% of sewing machines are equipped with needle guards, 60% of which were purchased guards and 40% of which were guards made by the factory. Daily inspection for machine guarding is conducted by individual line managers on site.

Plan No
Complete:

Plan 04/30/2013
Complete
Date:

Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

Noncompliance

Explanation: Workers were not assured 1 day off per 7 in June 2011. Based on the review of time records from September 2010 to October 14, 2011, and confirmation from workers and confirmation from management interviews, it was found that the workers were allocated at least 1 day off per 7 for most months, but about 50% of workers worked for 12 days consecutively without 1 day off from June 7th to 18th, 2011. (Remark: As per the attendance records, payrolls and management interviews, the normal day off on Sunday was swapped from June 12 (Sunday) to June 20 (Monday).

Legal Reference: Article 38 of the China Labor Law

Plan Of Issued CAPA #2809 to [Factory name].
Action:

Deadline 01/09/2012
Date:

Supplier Factory will switch working hours in the case of an emergency, such as power outages,
CAP: natural disasters, and customer requirements, etc. Factory will comply with the customer switch working hour policy. We switch working hours after we get the customer/union and the worker's approval. Photo sent to FLA for review.

Supplier
CAP Date:

Action Taken: Updated on January 25, 2013: Factory has strictly followed the 1 rest day per 7 days policies, except the positive switch hour policy which will be approved by Nike, which includes statutory holiday switch hours.

Plan Complete: Yes

Plan Complete Date: 02/05/2012

Hours of Work: Overtime/Calculation Over Period Longer Than One Week

HOW.10. Employers are allowed to calculate normal hours of work as an average over a period of longer than one week where local laws, regulations and procedures provide for such a possibility but only when all formal and procedural requirements attached to such calculation (for instance, obtaining official permission from the relevant authorities or limits to the period during which such calculations can be made) are met. The basis for such calculation shall, however, remain at all times the lesser of 48 hours per week or legal limits on hours of work in the country of manufacture or, where such legal limits do not exist, the regular work week in such country. (S)

Noncompliance

Explanation: The total overtime hours within the periods of the Comprehensive Working Time Waivers were more than the legal limit. The factory had applied for the Comprehensive Working Time System, valid from June 1st to December 31, 2010, January 1st to June 30th, 2011 and July 1st to December 31st, 2011 respectively. Based on the review of time records from September 2010 to October 14th, 2011, it was noted that about 90% of workers' overtime exceeded the 216 hours limit from September to December 31st, 2010, up to 327 hours; about 90% of workers' overtime exceeded the 216 hours limit from January 1st to June 30th, 2011, up to 529 hours.

(Remark: about 90% of workers' overtime from July 1st to October 14, 2011 was already up to 207 hours, and most likely the total overtime hours will exceed 216 hours by December 31st, 2011.)

Legal Reference: Article 65 of the Instruction on the Implementation of the China Labor Law

Plan Of Action: Issued CAPA # 2810 to [Factory name].

Deadline Date: 01/09/2012

Supplier CAP: Factory didn't 100% comply with the overtime regulation of the local law.

1. Factory established the work time and overtime regulations. The normal work hours are no more than 40 hours a week. The overtime is no more than 3 hours for a normal day, and no more than 20 hours a week. Workers get 1 day off in a calendar week.

2. The corporation's responsibility department is in charge of executing the overtime policy. All overtime must be approved by the workers.

Supplier CAP Date:

Action Taken: Updated on January 25, 2012: Factory strictly follows the NIKE CLS requirement, which states that daily OT is not to exceed 3 hours and weekly OT is not to exceed 20 hours.

Plan Complete: Yes

Plan Complete Date: 02/05/2012
